

**UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MASSACHUSETTS**

\_\_\_\_\_  
JOHN GACHAGO,  
Plaintiff

v

\_\_\_\_\_  
BRISTOL MYERS SQUIBB,  
Defendant  
\_\_\_\_\_

)  
)  
) CIVIL ACTION NO.  
)  
)

05-10141-RGS  
)  
)  
)

**PLAINTIFF JOHN GACHAGO'S**  
**MOTION FOR SUMMARY JUDGMENT**  
**ON COUNT I - BREACH OF CONTRACT**

Plaintiff, John W. Gachago, moves pursuant to Fed.R.Civ.P 56 for Partial Summary Judgment on Count 1, Breach of Contract. In support of this Motion, Plaintiff relies on its Memorandum of Law in Support of its Motion for Summary Judgment filed herewith and incorporated herein by reference. As grounds for this Motion, Plaintiff states the following:

Summary Judgment should be granted because there exists no genuine issue of material fact and because Plaintiff is entitled to judgment as a matter of law.

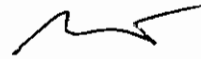
Plaintiff had a contractual obligation to submit timely expense reports. Defendant had an obligation to audit those reports and to either 1) accept the charges as for "business purposes" and pay American Express directly or 2) to reject the charges and either discipline or withhold pay from Gachago.

Plaintiff submitted all expense reports as required by Company policy. No submitted charges were rejected as for "non-business purposes." Defendant breached the

contract by failing to pay AMEX for charges made for and submitted as for “business purposes.” Plaintiff suffered financial harm due to BMS’ breach of contract.

WHEREFORE, Plaintiff requests that its Motion for Summary Judgment be allowed as to Count I – Breach of Contract.

Respectfully submitted,  
JOHN W. GACHAGO  
By his attorney,



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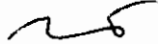
Doug Surprenant BBO No. 651975  
Law Office of Doug Surprenant  
55 N. Franklin Street  
Holbrook, MA 02343  
(781) 767-9300

Dated: September 8, 2005

REQUEST FOR ORAL ARGUMENT

Plaintiff John Gachago requests an oral argument on its Motion for Summary Judgment as to Count I Breach of Contract pursuant to Local Rule 7.1(d)

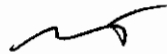
Respectfully submitted,  
JOHN W. GACHAGO  
By his attorney,

  
\_\_\_\_\_  
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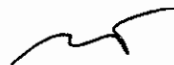
CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon attorney of record for the defendant, Eve Slattery, by first-class mail on September 8, 2005

  
\_\_\_\_\_  
Doug Surprenant

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

I hereby certify that on July 20, 2005, Doug Surprenant, counsel for the Plaintiff, John Gachago, and Eve Slattery, Counsel for the Defendant, conferred and attempted in good faith to resolve or narrow the issues presented herein.

  
\_\_\_\_\_  
Doug Surprenant